HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO. 23803 OF 2006

Between:

Bayya Joseph Raju

..... Petitioner

AND

The District Collector,
East Godavari District,
Kakinada & others

.....Respondents

:: O R D E R ::

Counsel for the petitioner : Shri Badana Bhaskara Rao

Dated: 17.11.2006

Per G.S.SINGHVI, CJ

In this petition filed in the name of public interest litigation, petitioner – Bayya Joseph Raju has prayed for grant of a declaration that inaction on the part of respondent Nos.1 and 2 to pass order in pursuance of notice dated 27-8-2003 issued by Joint Collector-cum-Chairman, District Level Screening Committee, Kakinada (respondent No.2 herein) and subsequent notices dated 16-9-2003, 17-11-2003 and 17-12-2003 issued by District Collector, East Godavari, Kakinada (respondent No.1 herein) is highly illegal, arbitrary, unjust and improper. He has further prayed for issue of a direction to respondent Nos.1 and 2 to declare the social status of respondent No.4 – Geddam Vijaya Harsha Kumar.

In the affidavit filed by him, the petitioner has described himself as Adi Andhra Christian and President of INTUC District Unit, East Godavari. He has averred that even though respondent No.4 is an Indian Christian, he fraudulently obtained Scheduled Caste certificate and has managed to be elected to the Parliament. He has further averred that on a complaint made by Shri Nakka Sri Nagesh, Organizing Secretary, District Congress Committee, East Godavari at Rajahmundry, respondent No.2 issued Form-VI notice dated 27-8-2003 to respondent No.4 and called upon him to appear for enquiry. Still further, he has averred that there are other complaints against respondent No.4 including the one made by Adireddy Appa Rao and M.S. Chakravarthi, Mayor, Municipal

Corporation, Rajahmundry. According to the petitioner, respondent No.1 issued notices dated 16-9-2003, 17-11-2003 and 17-12-2003 for holding enquiry into the certificate obtained by respondent No.4, but no final decision has been taken so far and, on that account, respondent No.4 is availing the benefit of caste certificate.

Learned counsel for the petitioner argued that the respondents are duty-bound to hold enquiry in accordance with the provisions of Andhra Pradesh (SC, ST, BCs.) Regulation of Issue of Community Certificates Act, 1993 read with Andhra Pradesh (SC, ST & BCs.) Issue of Community, Nativity and Date of Birth Certificates Rules, 1997, but, by using his influence as a Member of Parliament, respondent No.4 has succeeded in stalling the adjudication of notice dated 27.08.2003.

In the context of the averments contained in the affidavit of the petitioner and argument made by the learned counsel, we enquired from the latter as to whether his client had made any complaint to any authority regarding the alleged fraudulent caste certificate obtained by respondent No.4 and whether he made representation to any of the official respondents imploring upon them to pass final order on the enquiry instituted at the instance of Shri Nakka Sri Nagesh. We also enquired from the learned counsel as to when the petitioner came to know about the alleged fraudulent caste certificate obtained by respondent No.4. In reply to the last-mentioned query, learned counsel for the petitioner stated that his client recently came to know through reliable sources that an enquiry into the fraudulent caste certificate issued

in favour of respondent No.4 is pending. However, in reply to other queries, learned counsel candidly stated that the petitioner never made a complaint to any competent authority in regard to the alleged fraudulent caste certificate obtained by respondent No.4 nor did he make any representation to the official respondents to decide the pending enquiry. It is, thus, evident that the petitioner has invoked the jurisdiction of this Court in a most casual manner and the writ petition filed by him after a gap of three years counted from the last notice issued by respondent No.1 in the matter of enquiry initiated at the instance of Shri Nakka Sri Nagesh can appropriately be termed as a frivolous piece of litigation instituted for the sake of cheap publicity or for settling personal scores with respondent No.4. If the petitioner was a vigilant citizen and wanted that respondent No.4 should not be allowed to take benefit of the alleged fraudulent caste certificate obtained by him, he would have, well before filing of nomination by respondent No.4, brought to the notice of the Returning Officer that the caste certificate of the said respondent is fake or he would have made a complaint to the competent authority to make enquiry under the 1993 Act or at least participated in the enquiry already instituted at the instance of Nagesh. However, the fact of the matter is that by fabricating a story of having acquired knowledge about the fraudulent caste certificate obtained by respondent No.4 in the recent past, the petitioner has, for

achieving some objective other than public purpose, invoked the jurisdiction of this Court under Article 226 of the Constitution of India.

The casual manner in which the petitioner has filed the petition is evinced from the fact that before instituting the writ petition, he did not represent to the competent authority to know whether or not the enquiry initiated in the matter of caste certificate obtained by respondent No.4 has been finalized. He did not even make an application under the Right to Information Act, 2005 to know the status of the enquiry pending against respondent No.4.

In the premise aforesaid, we hold that the writ petition is vexatious piece of litigation and deserves to be dismissed as such.

In **Guruvayoor Devaswom Managing Committee v. C.K. Rajan**[1], a three-judge Bench reviewed various judicial precedents on the subject and laid down the following principles for entertaining the public interest litigation:

> (i) The Court in exercise of powers under Article 32 and Article 226 of the Constitution of India can entertain a petition filed by any interested person in the welfare of the people who is in a disadvantaged position and, thus, not in a position to knock the doors of the Court.
>
> The Court is constitutionally bound to protect the fundamental rights of such disadvantaged people so as to direct the State to fulfill its constitutional promises. (See S.P.Gupta v. Union of India (1981 Supp SCC 87), People's Union for Democratic Rights v. Union of India ((1982) 2 SCC 494), Bndhua Mukti Morca v. Union of India((1984) 3 SCC 161) and Janata Dal v. H.S.Chowdhary ((1992) 4 SCC 305).

(ii) Issues of public importance, enforcement of fundamental rights, of a large number of the public vis-à-vis the constitutional duties and functions of the State, if raised, the Court treats a letter or a telegram as a public interest litigation upon relaxing procedural laws as also the law relating to pleadings. (See Charles Sobraj v. Supdt., Central Jail ((1978) 4 SCC 104) and Hussainara Khatoon (I) v. Home Secy., State of Bihar ((1980) 1 SCC 81).

(iii)Whenever injustice is meted out to a large number of people, the Court will not hesitate in stepping in. Articles 14 and 21 of the Constitution of India as well as the International Conventions on Human Rights provide for reasonable and fair trial.

In Maneka Sanjay Gandhi v. Rani Jethmalani ((1979) 4 SCC 167), it was held: (SCC p. 169, para 2)

"2. Assurance of a fair trial is the first imperative of the dispensation of justice and the central criterion for the court to consider when a motion for transfer is made is not the hypersensitivity or relative convenience of a party or easy availability of legal services or like mini-grievances. Something more substantial, more compelling, more imperiling, from the point of view of public justice and its attendant environment, is necessitous if the court is to exercise its power of transfer. This is the cardinal principle although the circumstances may be myriad and vary from case to case. We have to test the petitioner's grounds on this touchstone bearing in mind the rule that normally the complainant has the right to choose any court having jurisdiction and the accused cannot dictate where the case against him should be tried. Even so, the process of justice should not harass the parties and from that angle the court may weigh the circumstances." (See also Dwarka Prasad Agarwal v.

B.D.Agarwal ((2003) 6 SCC 230)

(iv)The common rule of locus standi is relaxed so as to enable the Court to look into the grievances complained on behalf of the poor, the depraved (sic), the illiterate and the disabled who cannot vindicate the legal wrong or legal injury caused to them for any violation of any constitutional or legal right. (See Fertilizer Corpn. Kamgar Union (Regd.) v. Union of India ((1981) 1 SCC 568), S.P. Gupta, People's Union for Democratic Rights, D.C. Wadhwa(Dr) v. State of Bihar ((1987) 1 SCC 378) and BALCO Employees' Union (Regd.) v. Union of India ((2002) 2 SCC 333)).

(v)When the Court is prima facie satisfied about variation of any constitutional right of a group of people belonging to the disadvantaged category, it may not allow the State or the Government from raising the question as to the maintainability of the petition. (See Bandhua Mukti Morcha).

(vi) Although procedural laws apply to PIL cases but the question as to whether the principles of res judicata or principles analogous thereto would apply depends on the nature of the petition as also facts and circumstances of the case (See Rural Litigation and Entitlement Kendra v. State of U.P. (1989 Supp (1) SCC 504) and Forward Construction Co. v. Prabhat Mandal (regd.)((1986(1) SCC 100).

(vii) The dispute between two warring groups purely in the realm of private law would not be allowed to be agitated as a public interest litigation. (See Ramasharan Autyanuprasi v. Union of India (1989 Supp (1) SCC 251).

(viii) However, in an appropriate case, although the petitioner might have moved a court in his private

interest and for redressal of personal grievances, the Court in furtherance of the public interest may treat it necessary to enquire into the state of affairs of the subject of litigation in the interest of justice. (See Shivajirao Nilangekar Patil v. Dr. Mahesh Madhav Gosavi ((1987) 1 SCC 227)

(ix) The Court in special situations may appoint a Commission, or other bodies for the purpose of investigating into the allegations and finding out facts. It may also direct management of a public institution taken over by such Committee. (See Bandhua Mukti Morcha, Rakesh Chandra Narayan v. State of Bihar (1989 Supp (1) SCC 644) and A.P. Pollution Control Board v. Prof. M.V.Nayudu ((1999) 2 SCC 718).

In Sachidanand Pandey v. State of W.B. ((1987) 2 SCC 295), this Court held: (SCC pp.334-35, para 61)

"It is only when Courts are apprised of gross violation of fundamental rights by a group or a class action on when basic human rights and invaded or when there are complaints of such acts as shock the judicial conscience that the courts, especially this Court, should leave aside procedural shackles ad hear such petitions and extend its jurisdiction under all available provisions for remedying the hardships and miseries of the needy, the underdog and the neglected. I will be second to none in extending help when such help is required. But this does not mean that the doors of this Court are always open for anyone to walk in. It is necessary to have some self-imposed restraint on public interest litigants."

In Janata Dal v. H.S.Chowdhary ((1992) 4 SCC 305), this Court opined: (SCC p. 348, para 109.)

It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the court for vindicating any personal grievance, deserves rejection at the threshold."

The Court will not ordinarily transgress into a policy. It shall also take utmost care not to transgress its jurisdiction while purporting to protect the rights of the people from being violated.

In Narmada Bachao Andolan v. Union of India ((2000) 10 SCC 664), it was held: (SCC pp. 762063, paras 229 & 232)

It is now well settled that the courts, in the exercise of their jurisdiction, will not transgress into the field of policy decision. Whether to have an infrastructural project or not and what is the type of project to be undertaken and how it has to be executed, are part of policy-making process and the courts are ill-equipped to adjudicate on a policy decision so undertaken. The court, no doubt, has a duty to see that in the undertaking of a decision, no law is violated and people's fundamental rights are not transgressed upon except to the extent permissible under the Constitution. Even then any challenge to such a policy decision must be before the execution of the project is undertaken. Any delay in the execution of the project means overrun in costs and the decision to undertake a project, if challenged after its execution has commenced should be thrown out at the very threshold on the ground of laches if

the petitioner had the knowledge of such a decision and could have approached the court at that time. Just because a petition is termed as a PIL does not mean that ordinary principles applicable to litigation will not apply. Laches is one of them.

While protecting the rights of the people from being violated in any manner utmost care has to be taken that the court does not transgress its jurisdiction. There is, in our constitutional framework a fairly clear demarcation of powers. The court has come down heavily whenever the executive has sought to impinge upon the court's jurisdiction."

(x) The court would ordinarily not step out of the known areas of judicial review. The High Courts although may pass an order for doing complete justice to the parties, they do not have a power akin to Article 142 of the Constitution of India.

(xi) Ordinarily, the High Court should not entertain a writ petition by way of public interest litigation questioning the constitutionality or validity of a statute or a statutory rule."

The judgments in **Gurpal Singh v. State of Punjab**[2], **R & M Trust v. Koramangal Residents Vigilance Group**[3], **Dattaraj Nathuji Thaware v. State of Maharastra**[4] and **Dr.B. Singh v. Union of India**[5] represent the recent trend of the judicial pronouncements in which the Supreme Court has adversely commented on the growing trend of filing public interest litigation, which do not have any nexus with public interest. The Courts have also described public interest litigation as publicity interest

litigation or personal interest litigation and imposed heave cost on the petitioner.

In the result, the writ petition is dismissed.

For filing frivolous petition, the petitioner is saddled with cost of Rs.10,000/-. He is directed to deposit the amount of cost with Andhra Pradesh State Legal Services Authority within a period of two months. Member Secretary, Andhra Pradesh State Legal Services Authority is directed to inform the Court whether or not the petitioner has deposited the amount of cost. If it becomes necessary, the Court may issue direction for recovery of cost by adopting coercive measures.

As a sequel to dismissal of the writ petition, W.P.M.P.No.30350 of 2006 filed by the writ petitioner for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

17.11.2006
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[1] (2003) 7 Supreme Court Cases 546

[2] (2005) 5 SCC 136

[3] (2005) 3 SCC 91

[4] (2005) 1 SCC 590

[5] (2004) 3 SCC 363